



CITY OF PHILADELPHIA

LAW DEPARTMENT
One Parkway
1515 Arch Street
Philadelphia, PA 19102-1595
SHELLEY R. SMITH
City Solicitor

Dennis Yuen
Asst. City Solicitor
(215) 683-5173 (Tel.)
(215) 683-5175 (Fax)

VIA US MAIL AND EMAIL

Paul H. Amundsen, Esq.
Assistant General Counsel
Philadelphia Energy Solutions
3144 Passyunk Ave.
Philadelphia PA 19145

February 11, 2014

RE: Settlement of July 29, 2013 Notice of Violation (NOV) and Resolution of November 14, 2013 Demand for Stipulated Penalties for Violations of United States et al. v. Sunoco, Inc., Civil Action No. 90-5-2-1-1744/1 (E.D. Pa.) Consent Decree, Filed March 20, 2006

Subject Premises: 3144 Passyunk Ave., Philadelphia, PA 19145
PLID No.: 01501

Dear Mr. Amundsen,

On or about July 29, 2013, the City of Philadelphia (City) Department of Public Health, Air Management Services (AMS) issued a Notice of Violation (NOV) to Philadelphia Energy Solutions Refining and Marketing, LLC (PES) citing violations of Title V Operating Permit V95-038, the Federal Clean Air Act, Pennsylvania Air Pollution Control Act, Title 3 of the Philadelphia Code, and the respective regulations promulgated thereunder at the above referenced subject premises. On November 14, 2013, AMS issued a demand for stipulated penalties alleging certain violations cited in the July 29, 2013 NOV pursuant to the March 20, 2006 Consent Decree, as amended and entered in United States et al. v. Sunoco, Inc., Civil Action No. 90-5-2-1-1744/1 (E.D. Pa.) (Demand for Consent Decree Stipulated Penalties). Copies of the NOV and the Demand for Consent Decree Stipulated Penalties are attached, and the cited violations described therein are incorporated into this Settlement Letter as if set forth fully below.¹ See Attached NOV, Dated July 29, 2013; Demand for Stipulated Penalties for Violations of United States et al. v. Sunoco, Inc., Civil Action No. 90-5-2-1-1744/1 (E.D. Pa.) Consent Decree, Filed March 20, 2006; Dated November 14, 2013.

Based upon a review of the applicable file, my conversations with you, and the totality of the circumstances surrounding this matter, the City has agreed to settle the above referenced

¹PES took over ownership and operations of the subject premises from Sunoco, Inc., effective September 8, 2012. Violations at the Philadelphia Refinery that occurred before September 8, 2012 and were cited in the July 29, 2013 NOV are not attributable to PES, and have been rescinded as to PES by AMS.

NOV, and the cited violations therein, for a total civil penalty in the amount of twenty four thousand two hundred twenty dollars (\$24,220.00). The agreement to accept this civil penalty, in lieu of any further penalty, is the final action of the City in this matter. In exchange, PES agrees to waive any appeal of said civil penalty, and to withdraw its administrative appeal of the July 29, 2013 NOV (Appeal No. 21233) that is before the City Licenses and Inspections Review Board. Failure to remit the total civil penalty to the City will subject PES to judicial action for the maximum penalty provided by law, plus interest and costs, and any other appropriate relief.

Having further discussed the Demand for Consent Decree Stipulated Penalties with the City, PES has agreed to pay said stipulated penalties in the amount of one hundred forty six thousand six hundred dollars (\$146,600.00). The stipulated penalties shall be paid to the City and the United States of America (United States) pursuant to Consent Decree Para. 193-194 (stipulated penalties split with 50% to the City, 50% to the United States).

It is understood that PES, in entering into this settlement, makes no admission of liability to the violations cited in the July 29, 2013 NOV; or otherwise referred to within the Demand for Consent Decree Stipulated Penalties. It is further understood that nothing in this settlement shall be considered an adjudication of any fact. In reaching this settlement, the parties seek to amicably resolve this matter, conserve their mutual resources, and avoid any further costs related to this matter. To signify PES's agreement to this settlement, please have this Settlement Letter signed as indicated below and returned to my office; and thereafter, by March 28, 2014 provide a check in the amount of ninety seven thousand five hundred twenty dollars (\$97,520.00) [\$24,220 negotiated civil penalty, plus \$73,300 (50% of stipulated penalty)]. The check shall be made payable to the "City of Philadelphia," and be mailed or hand delivered to:

Patrick K. O'Neill, Esq., Div. Dep. City Solicitor
City of Philadelphia Law Department
1515 Arch Street, 16th Floor
Philadelphia, PA 19102

In order to satisfy Consent Decree paragraphs 193-194, PES will also pay seventy three thousand three hundred dollars (\$73,300.00) to the United States.

Thank you for your time and consideration in this matter.

Sincerely,



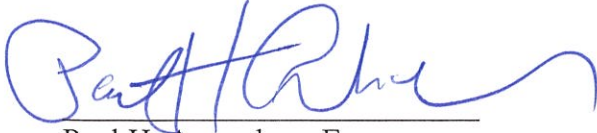
Dennis Yuen, Esq.
Assistant City Solicitor

Cc:

Thomas Huynh, AMS Director
Patrick K. O'Neill, Esq., Div. Dep. City Solicitor
Roger Fey, AMS-FCE Chief
Thomas Barsley, AMS-FCE
Robert Stoltzfus, Esq., EPA R3 ORC

[Space Left Intentionally Blank]

**On Behalf of Philadelphia Energy Solutions
Refining and Marketing, LLC**

A handwritten signature in blue ink, appearing to read "Paul H. Amundsen", written over a horizontal line.

Paul H. Amundsen, Esq.
Assistant General Counsel

2/11/14
Date



CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH
Donald F. Schwarz, MD, MPH
Deputy Mayor for Health & Opportunity
Health Commissioner

Nan Feyler, JD, MPH
Chief of Staff

Air Management Services
Thomas Huynh
Director

Facility Compliance & Enforcement
321 University Avenue, 2nd Floor
Philadelphia, PA 19104

Telephone (215) 685-7572
Fax (215) 685-7593

NOTICE OF VIOLATION

July 29, 2013

CERTIFIED MAIL NO: 7010 2780 0002 7798 9571

Charles D. Barksdale Jr.
Manager, Environmental Department
Philadelphia Energy Solutions Refining and Marketing, LLC
3144 Passyunk Avenue
Philadelphia, PA 19145-5299

RE: Philadelphia Energy Solutions Refining and Marketing, LLC

PLID No.: 01501

Air Management Services (hereinafter "AMS") is charged with enforcement of Title 3 of the Philadelphia Code of Ordinances, known as the Air Management Code (hereinafter "AMC") and the Air Management Regulations (hereinafter "AMRs") promulgated thereunder, which incorporate certain state and federal regulations, including those of the Environmental Quality Board of Pennsylvania contained in 25 Pa. Code §§ 121-129 and 131-145, and those of the United States Environmental Protection Agency (hereinafter "EPA") including 40 C.F.R. § 52.21 (Prevention of Significant Deterioration of Air Quality), and 40 C.F.R. pts. 60 (New Source Performance Standards), 61 (National Emissions Standards for Hazardous Air Pollutants), and 63 (Maximum Achievable Control Technology). The AMRs applicable hereto are part of the EPA approved State Implementation Plan for Philadelphia County, for the Metropolitan Philadelphia Interstate Air Quality Control Region, 40 C.F.R. § 52.2020 et seq, pursuant to the Federal Clean Air Act, 42 U.S.C. §§ 7401-7671 et seq. The City of Philadelphia is also authorized pursuant to the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001-4015 to enforce the applicable provisions of the Pa. Code cited above.

Philadelphia Energy Solutions Refining and Marketing, LLC (hereinafter "PES") owns and operates the PES Refinery located at 3144 Passyunk Ave, Philadelphia, PA 19145 (hereinafter "Facility"). PES submitted various reports, including Continuous Emissions Monitoring, Semi-Annual, Title V Annual Certification and SO₂ Quarterly reports, pertaining to Facility operations from January 2012 through the end of December 2012. On or about July 15, 2013, AMS completed a review of said reports and identified the following violations pursuant to the authority cited above:

<u>No.</u>	<u>Code/Statute Reference</u>	<u>Description of Violation(s)</u>
I.	Title V Operating Permit V95-038, Section D.4 (b)(1),(4) and (5)	The PB South Yard North Flare (P-642) was operated without a pilot flame on the following dates in 2012:
	Title V Operating Permit V95-038, Section D.4 (d)	January 2 for 181 minutes, January 13 for 329 minutes, January 18 for 468 minutes, January 27 for 598 minutes, February 12 for 38 minutes, February 24 for 116 minutes, February 25 for 1045 minutes, February 26 for 798 minutes, February 28 for 1018 minutes, March 2 for 45 minutes, March 9 for 997 minutes, March 10 for 574 minutes, April 3 for 254 minutes, April 8 for 441 minutes, April 9 for 958 minutes, April 10 for 100 minutes, May 11 for 26 minutes, May 24 for 7 minutes, December 21 for 150 minutes, December 22 for 1091 minutes, December 23 for 55 minutes, December 28 for 151 minutes, December 29 for 171 minutes and December 30 for 844 minutes.
	40 C.F.R. § 60.18(c)(2)	
	40 C.F.R. § 63.11(b)(4) and (5)	
	25 Pa. Code § 127.444	
	AMC § 3-306(5)	
	AMR I § XI	
	AMR XIII	Flare smoking events for the PB South Yard North Flare (P-642) were reported on the following dates in 2012:
		April 20 for 7 minutes, October 2 for 9 minutes, December 22 for 8 minutes and December 30 for 8 minutes.
		From August 10 to August 11 of 2012 the PB South Yard North Flare (P-642) pilot thermocouples did not provide valid readings for 17 minutes while steam was being used to prevent smoke.
		On December 27, 2012 a partial power outage caused the PB South Yard North Flare (P-642) thermocouple readings to be lost and no power to the auto-igniters for 1191 minutes.
		(Each occurrence is a separate violation.)

2. Title V Operating Permit V95-038, Section D.27 and D.28 (a)(4) On January 12, 2012 and December 26, 2012 a rain event caused the level in the #2B separator (P-132) to overflow onto the separator cover.
- 40 C.F.R. §§ 61 Subpart FF On May 25, 2012 the effluent pump stopped working, causing levels to rise and overflow onto the covers of the #2B separator (P-132).
- 40 CFR 63.139(a) On June 4, 2012 heavy rains and having the effluent pump out of service for repairs (see violation above) caused the level in the #2B separator to overflow onto the separator covers.
- 25 Pa. Code § 127.444 On June 5, 2012 the only operating effluent pump was overwhelmed by incoming flow, causing levels to rise and overflow onto the covers of the #2B separator (P-132).
- AMC § 3-306(5) On June 20, 2012 flow was directed to the #2B separator (P-132) while back flushing the alum bed fluffings. The extra flow overwhelmed the effluent pump, causing levels to rise and overflow onto the covers of the #2B separator.
- AMR XIII On June 22, 2012 due to a power loss, levels in the #4A separator (P-131) rose and overflowed onto the separator covers.
- On July 14, 2012 and August 1, 2012 overfilled #2B separator (P-132) caused the level in the #2B separator to overflow onto the separator covers.
- On July 17, 2012 the weekly Mixed Liquor Volatile Suspended Solids (MLVSS) measurements failed to maintain a concentration greater than 1000 mg/L at the GP Wastewater Treatment Plant (GP WWTP)(P-142).
- On August 1, 2012 overfilled separator causing overflow onto the cover of #2B separator (P-132).
- On August 10, 2012 and August 27, 2012 heavy rains and having a stormwater storage tank out of service for inspections overwhelmed the pumping capacity of P-210A and P-210B and caused the level in the #2B separator to overflow onto the separator covers
- Due to failure to follow oil-separator maintenance and / or operating procedures, on September 28, 2012, internal inspections conducted showed two (2) hatches were closed but not latched on Bio Plant separators A and B (P-639).
- Due to failure to follow oil-separator maintenance and / or operating procedures, on December 13, 2012, internal inspections conducted showed six (6) hatches were closed but not latched on the #2B separator (P-132).

Due to failure to follow oil-separator maintenance and / or operating procedures, on December 13, 2012, internal inspections conducted showed three (3) hatches were closed but not latched on the #4A separator (P-131)

On December 21, 2012 heavy rains caused the level in the #2B separator (P-132) to overflow onto the separator covers.

On December 26, 2012 heavy rains caused the level in both the #2B separator (P-132) and the #4A separator (P-131) to overflow onto the separator covers.

(Each occurrence is a separate violation.)

3. Title V Operating Permit V95-038, In January 2012, instances of non-compliance with the Section D.7 (a)(4) Sampling Connection Systems Regulations (other than SOCFI units) were discovered by PES as a result of a sample station audit.

40 CFR 60.482-5

25 Pa. Code § 127.444

AMC § 3-306(5)

AMR XIII

4. Title V Operating Permit V95-038, During the 1st half of 2012, thirty eight (38) open ended lines were found during internal inspections. During the 2nd half of 2012, twenty-five (25) open ended lines were found during internal inspections.

40 C.F.R. § 60.480

40 C.F.R. § 60.590

(Each occurrence is a separate violation.)

40 C.F.R. § 63.648

40 C.F.R. §§ 61.110-61.112

25 Pa. Code § 129.58

25 Pa. Code § 127.444

AMC § 3-306(5)

AMR V § XIII.A

AMR XIII

5. Title V Operating Permit V95-038, Section C.2
On June 28, 2012 PES monitoring of the fence line detected a mercaptan odor that was released from an improperly sealed wastewater drum containing residual mercaptan from back flushing.
25 Pa. Code § 123.31
25 Pa. Code § 127.444 (Each occurrence is a separate violation.)
AMC Chapter 3-306 (5)
AMR V § XX
6. Title V Operating Permit V95-038, Section C.3
On July 23, 2012 facility's 868 FCCU (P-661) walnut shell blasting caused high vibration on the power recovery train which caused the feed to be diverted from the unit. This led to a unit shutdown, incurring 2 hours of elevated opacity readings greater than 20%.
25 Pa Code § 123.41
25 Pa Code § 127.444
On September 24, 2012 suspected heavy rains caused elevated opacity readings greater than 20% for PES's 868 FCCU (P-661) for a total of 15 minutes: 3 minutes were greater than 59% and 12 minutes were greater than 20% but less than 59%.
25 Pa Code § 127.512(c)(1)
AMC Chapter 3-306(5)
AMR II § IV.1
On October 19, 2012 suspected heavy rains caused elevated opacity readings greater than 20% for PES's 868 FCCU (P-661) for a total of 5 minutes.
On December 21, 2012 the prolonged startup of PES's 868 FCCU (P-661) caused elevated opacity readings greater than 20% for an accumulated total of 8 hours.
8. Title V Operating Permit V95-038, Section D.21(a)(1)
On October 9, 2012 PES's s 868 FCCU (P-661) exceeded its 54 Lbs/Hr CO emission limit for 1 hour.
25 Pa Code § 129.91-95
25 Pa Code § 127.444
AMC Chapter 3-306(5)
AMR XIII

9. Title V Operating Permit V95-038, On September 24, 2012 PES missed the repair due date for a pump at the 433 (P-182) by 4 days.
- 40 C.F.R. § 60.480 On December 27, 2012 PES missed the repair due date for Unit 1732 benzene railcar unloading station (P-181) for a connector by 1 day.
- 40 C.F.R. § 60.590
- 40 C.F.R. § 63.648 (Each occurrence is a separate violation.)
- 40 C.F.R. §§ 61.110-61.112
- 25 Pa. Code § 129.58
- 25 Pa. Code § 127.444
- AMC § 3-306(5)
- AMR V § XIII.A
- AMR XIII
10. Title V Operating Permit V95-038, From July 1, 2012 to September 30, 2012 Continuous Emission Monitoring (CEM) of fuel gas H₂S levels for the 137 F-1 Heater (CU-013) failed to meet the quarterly 95% data availability requirement. Allowable out of service (OOS) time for 3rd quarter was 110 hours. Facility had 238 hours of OOS time.
- 25 PA Code §127.511 and 139
- Clean Air Act §114(a)(3) and 504(b)
- 40 C.F.R. § 60.105
- 25 Pa. Code § 127.444
- AMC Chapter 3-306(5)
- AMR V. § XX
11. Plan Approval #04322 issued on February 28, 2006, condition 5 Sunoco's 1232 FCCU failed stack test on April 25, 2013, due to exceeding the 0.50 lbs/1000 lbs coke burn off limit.
- 25 Pa. Code § 139
- AMC § 3-306(5)
- AMR XIII

The above-noted violations combined with your EPA defined Major Source classification requires that AMS place your company on the EPA High Priority Violators List and resolve this NOV within 270 days from the date when your Facility was found non-compliant. AMS is also required to recover, as a penalty, any economic benefit realized by the company as a result of non-compliance.

Philadelphia Energy Solutions Refining and Marketing, LLC may request, within ten (10) days from the receipt of this NOV, a meeting with AMS to discuss this NOV. You should direct any compliance notification, corrective action plan, request for a conference, or questions to:

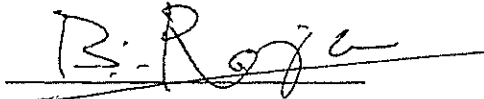
Thomas Barsley
Engineering Supervisor
Air Management Services
321 University Avenue, Second Floor
Philadelphia, PA 19104-4543
(215) 685-9417

Pursuant to § 5-1005 of the Philadelphia Home Rule Charter, Philadelphia Energy Solutions Refining and Marketing, LLC has thirty (30) days to file an appeal of this NOV to the Board of Licenses and Inspections Review (BLIR). Any such appeal should include a copy of this NOV and be directed to:

Board of License and Inspection Review
Municipal Services Building, 11th Floor
1401 JFK Blvd.
Philadelphia, PA 19102

However, be advised that the exercise of your appeal rights does not prevent the Commonwealth and/or the EPA from taking separate enforcement action, will not stay any above directed action, or stay other enforcement remedies available to the City, including, but not limited to, license revocation, assessment of penalties up to \$25,000 per violation per day, remedial action, and/or criminal prosecution.

THIS NOTICE IS FINAL AND EFFECTIVE IMMEDIATELY UPON RECEIPT


Bajram 'Ben' Nela
Environmental Engineering Specialist
Facility Compliance and Enforcement
Air Management Services

Cc: Thomas Barsley, Engineering Supervisor



CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH
Donald F. Schwarz, MD, MPH
Deputy Mayor for Health & Opportunity
Health Commissioner

Nancy Feyler, JD, MPH
Chief of Staff

Air Management Services
Thomas Huynh
Director

Facility Compliance & Enforcement
321 University Avenue, 2nd Floor
Philadelphia, PA 19104

Telephone (215) 685-7572
Fax (215) 685-7593

November 14, 2013

CERTIFIED MAIL NO: 7012 3050 0000 6324 3222

Charles D. Barksdale Jr.
Manager, Environmental Department
Philadelphia Energy Solutions Refining and Marketing, LLC
3144 Passyunk Avenue
Philadelphia, PA 19145-5299

**RE: Demand for Stipulated Penalties for Violations of United States et al. v. Sunoco, Inc.,
Civil Action No. 90-5-2-1-1744/1 (E.D. Pa.) Consent Decree, Filed March 20, 2006**

Facility: PLID: 01501 - PES Refinery, 3144 Passyunk Ave., Philadelphia, PA

Dear Mr. Barksdale:

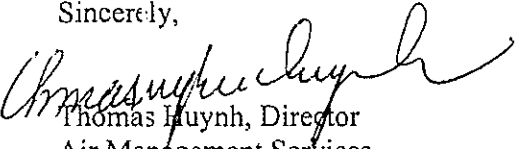
On or about July 29, 2013, the City of Philadelphia (City) Department of Public Health, Air Management Services (AMS) issued a Notice of Violation (NOV) to Philadelphia Energy Solutions Refining and Marketing, LLC (PES) for multiple violations of Title 3 of the Philadelphia Code, Phila. Code §§ 3-101-3-402; the Pennsylvania Air Pollution Control Act (APCA), 35 P.S. §§ 4001 et. seq.; the Clean Air Act (CAA), 42 U.S.C. §§ 7401 et. seq.; and the respective regulations promulgations thereunder at the above referenced Facility. See Attached July 29, 2013 NOV. AMS determined that certain violations cited within this NOV constitute violations of the March 20, 2006 Consent Decree (Consent Decree) as amended, and are subject to stipulated penalties as follows:

- On September 24, 2012 PES missed the repair due date for a pump (P-182) at unit 433 at the Facility by four (4) days; See Attached Id. Item 9. Pursuant to Consent Decree Paragraphs 83.b. and 177, PES is subject to a stipulated penalty in the amount of one hundred dollars (\$100) for this violation (\$100 per violation).
- On April 25, 2013, PES failed to demonstrate that the 1232 FCCU at the Facility complied with the 0.5 lbs PM/ 1000 lbs coke burn off limit; See Attached Id. Item

Paragraphs 16 and 129, PES is subject to a stipulated penalty in the amount of one hundred sixty six thousand five hundred dollars (\$166,500) for this violation (\$1,500 per day for the 111 days that elapsed between the unsuccessful and successful stack tests).

Accordingly, AMS demands a total stipulated penalty in the amount of one hundred sixty six thousand six hundred dollars (\$166,600), to be split evenly between the United States and the City. See Consent Decree Paragraphs 193, 194. If you have any questions regarding this letter, please contact Bajram Nela with AMS at (215) 685-7575 or Bruce Augustine with United States Environmental Protection Agency at (215) 814-2131.

Sincerely,


Thomas Huynh, Director
Air Management Services

Cc (Hard Copy): Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611
Reference Case No. 90-5-2-1-1744/1

Director, Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Mail Code 22452-A
1200 Pennsylvania, Avenue, N.W.
Washington, DC 20460-0001

Director, Air Enforcement Division
Office of Civil Enforcement
c/o Matrix Environmental & Geotechnical Services
215 Ridgedale Avenue
Florham Park, NJ 07932

Bruce Augustine
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

Facility Manager - Philadelphia Refinery
3144 Passyunk Avenue
Philadelphia, PA 19134

Cc (electronically): neichlin@matrixengineering.com
Jackson.james@epa.gov
foley.patrick@epa.gov